

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI

STATE OF MISSOURI ex rel.)	
JEREMIAH W. (JAY) NIXON,)	
ATTORNEY GENERAL)	
)	
)	
Plaintiff,)	
)	
)	Cause No.:
vs.)	
)	
)	Division:
WORLD WIDE SOURCE)	
PUBLISHING, INC.,)	
)	
AND)	
)	
PAVLOS ANGELATOS, President,)	
)	
Defendants.)	
)	
Serve: World Wide Source Publishing, Inc.)	HOLD FOR SERVICE
2015 Drummond Ave.)	
Suite 800)	
Montreal, Quebec)	
CANADA H3G1W7)	

***PETITION FOR EQUITABLE RELIEF, RESTITUTION,
CIVIL PENALTIES AND OTHER RELIEF***

Plaintiff, the Attorney General of the State of Missouri, Jeremiah W. (Jay) Nixon, in his official capacity, by his Assistant Attorney General Elizabeth P. Schott, states the following:

1. Defendant World Wide Source Publishing, Inc. (“WWS”) is a Canadian corporation doing business in the State of Missouri. WWS uses United States mailing addresses in Vermont and New York. WWS has violated the Missouri Merchandising Practices Act by marketing and selling a \$400 business-to-business directory to Missouri residents and others. The violations alleged

include deceptive representations and omissions concerning the nature of the products and services being offered, charging customers without authorization and unfair pricing. Defendant Pavlos Angelatos is the President of WWS.

2. Jeremiah W. (Jay) Nixon is the duly elected, qualified and acting Attorney General of the State of Missouri and brings this action in his official capacity pursuant to his common law, constitutional, and statutory authority, including but not limited to Chapters 27 and 407 of the Missouri Revised Statutes (as amended), and regulation promulgated thereunder. The Attorney General seeks injunctive relief, restitution to purchasers, civil penalties, fees and costs, and other appropriate relief.

JURISDICTION AND VENUE

3. Section 407.100.1-3 provides:

1. Whenever it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in any method, act, use, practice or solicitation or any combination thereof, declared to be unlawful by this chapter, he may seek and obtain, in an action in a circuit court, an injunction prohibiting such person from continuing such methods, acts, uses, practices or solicitations or any combination thereof, or engaging therein, or doing anything in furtherance thereof.

2. In any action under subsection 1 of this section, and pursuant to the provisions of the Missouri Rules of Civil Procedure, the attorney general may seek and obtain temporary restraining orders, preliminary injunctions, temporary receivers and the sequestering of any funds or accounts if the court finds that funds or property may be hidden or removed from this state or that such orders or injunctions are otherwise necessary.

3. If the court finds that the person has engaged in, is engaging in, or is about to engage in any method, act, use, practice or solicitation, or any combination thereof, declared to be unlawful by this chapter, it may make such orders or judgments as may be necessary to prevent such person from employing or continuing to employ or to prevent the recurrence of, any prohibited methods, acts, uses, practices or solicitations, or any combination thereof, declared to be unlawful by this chapter.

4. This Court has jurisdiction over the subject matter of this action pursuant to Chapters 27 and 407 of the Missouri Revised Statutes (as amended), and Article V of the Missouri Constitution.
5. This Court has personal jurisdiction over the defendants pursuant to section 506.500 RSMo.
6. Venue lies in the Circuit Court of St. Louis County in that the violations of the Missouri Merchandising Practices Act described herein occurred, among other places, in St. Louis County in the State of Missouri. Section 407.100.7 RSMo.

THE MISSOURI MERCHANDISING PRACTICES ACT

7. Section 407.020 provides, in pertinent part:

The act, use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce or the solicitation of any funds for any charitable purpose, as defined in section 407.453, in or from the State of Missouri, is declared to be an unlawful practice.

FACTS

8. Since March 2001, Defendants, through their agents, have solicited orders for two-year listings in their hard-bound, business to business directory, the “American Business Index,” by means of outbound telemarketing calls to businesses, including many small businesses, in Missouri and throughout the United States.
9. WWS has used return addresses in Vermont and New York on correspondence to consumers in the United States. WWS does not disclose their true address in Montreal.

10. The American Business Index contains listing of businesses, their city and state, telephone numbers, and fax numbers, websites and email addresses, if any.
11. According to WWS, as of August 2001, the American Business Index had been sold to over 35,000 customers, who were billed \$399.95 each to be listed in the directory and to receive a copy of it.
12. The American Business Index is of limited, if any, value to most businesses, because it is not distributed to consumers, but only to other businesses that purchase listings in the directory. Moreover, the directory does not have any type of geographical index. For example, if a Missouri business actually used the directory to locate a contractor, they would have to go through over 50 pages of contractor listings that are arranged alphabetically, rather than by city or state.
13. WWS, through its agents, represent to their prospective customers that the directory listing being offered is in the prospective customer's local telephone company Yellow Pages. WWS agents begin their sale to prospective customers with, "(Sir/Ma'am), this is _____ your Account Representative from World Wide Source, calling regarding your listing for the business-to-business Yellow Pages, The American Business Index..." By promoting the directory as the "Yellow Pages" consumers are left thinking this is a solicitation for their local Yellow Pages.
14. This representation of WWS' directory as the Yellow Pages is reinforced by Defendants' telemarketing training materials:

- a. “Simply refer to our product/service as a ‘National Yellow Page Listing.’
Everyone knows what that entails and you are less likely to be needlessly interrogated.”
 - b. “The simplest way to [get past the receptionist] is to simply say: “Who handles you Yellow Page listings?”
- 15. Defendants’ telemarketer training materials encourage efforts to avoid answering questions about the American Business Index: “When asked [what directory this is, or to describe the product], simply REPEAT the directory’s name, and continue instantly with your Presentation.”
- 16. Defendants, through their agents, also represent to their prospective customers that WWS offers a renewal of a previous listing, thus contributing to the confusion with the local Yellow Pages mentioned above.
- 17. This implication that the customer is being asked to renew its listing is conveyed by Defendants’ telemarketing script, which contains the following series of representations that state or imply that the business already has a listing which it is simply being asked to renew or update:
 - a. that the caller simply “need[s] to verify” that the business’ listing is correct for the “new edition.”
 - b. that the customer will receive a “Revision Form for this term,” suggesting a revision of some earlier listing.
 - c. that with a listing, the customer has been brought “up to date for the new edition,” again suggesting a revision of an earlier listing;

- d. that this is “this year’s order,” as opposed to last year’s order.
18. Defendants, through their agents, use a “rebuttal” script that reinforces the representation that the company sells renewals of existing directory listings, and that avoids responding to questions about renewal, as follows:
- a. “I just need a minute of your time to update your listing.”
 - b. “[T]his is a Courtesy Call to confirm that your listing is accurate for the new edition.”
 - c. “Right now we’re only updating your listing...”
 - d. [Question:] “Did we received [sic] it?/Have I done this before? [Answer:] I’m in the subscription department...we have you currently listed in our database and we have you scheduled for the next 2 years. I’m just calling to confirm that we still have you listed correctly...”
19. Defendants’ telemarketer training materials further underscore the representation that customers commonly renew their listings:
- a. “Renewing Clients ‘should’ want the product again...”
 - b. “Many clients may very well have not been listed before.”
 - c. “If a customer has purchased before...”
 - d. “Clients who have bought and paid for previous services.”
20. Defendants’ telemarketer training materials encourage efforts to avoid answering questions about the “renewal” aspect of the listings offered by the company: “If a Client asks if they have ‘paid’ for the product before, the Agent must indicate that: ‘for security reasons we never keep financial details on file...’”

21. WWS began marketing its two-year directory listings only in October 2000, therefore it is unlikely that any customers contacted in 2000, 2001, or early 2002 could have renewed an existing listing.
22. Defendants, through their agents, further represent to their prospective customers that the circulation of the American Business Index is over 1 million. This is reflected in WWS' rebuttal script as follows: [Question:] "What is the circulation of this directory? [Answer:] We publish over 1 million listings per year."
23. WWS is deceptive in its answer by stating how many listings they publish, rather than how many copies of the book are actually sold.
24. In fact, the circulation of the American Business Index is actually about 35,000.
25. On information and belief, Defendants, through their agents, have billed many of their customers \$399.95 for listings in the American Business Index without obtaining authorization from them.
26. As of July 12, 2002, the State of Missouri had received 18 complaints directed at WWS.

Count I - Deceptive Representations and Omissions

27. The allegations set forth above are realleged herein.
28. As reflected in their telemarketing scripts and training materials, Defendants have misrepresented and continue to misrepresent, directly and implicitly, the most fundamental facts relating to the goods and services offered by WWS, including:
 - a. the nature of the WWS' American Business Index as a local Yellow Pages directory, which it is not.

- b. offers of a listing in the American Business Index as renewals of a prior listing, which they are not.
 - c. the size of the circulation of the American Business Index, which, as presented to prospective customers, is overinflated.
29. These practices constitute a deceptive trade practice within the meaning of the Missouri Merchandising Practices Act as set forth in Chapter 407 of the Revised Missouri Statutes, and hence violate the Act.

Count II: Deceptive Representation of United States Address

30. The allegations set forth above are realleged herein.
31. Defendants, through their agents, have used and continue to use United States return address without any accompanying reference to WWS' true location in Montreal. Defendants have used addresses in the States of Vermont and New York on correspondence to customers.
32. This has had the effect of misleading customers into believing that the company is actually based in the United States.
33. Defendants's use of U.S. return addresses without disclosure of their true address in Canada constitutes a deceptive trade practice within the meaning of the Missouri Merchandising Practices Act, Chapter 407 RSMo, and hence violates the Act.

Count III: Unauthorized Billings

34. The allegations set forth above are realleged herein.
35. Defendants, through their agents, have billed many of their customers \$399.95 for listings in the American Business Index without obtaining authorization from them.

36. Unauthorized billings constitute an unfair trade practice within the meaning of the Missouri Merchandising Practices Act Chapter 407 RSMo, and hence violates the Act.

Count IV: Unfair Pricing

37. The allegations set forth above are realleged herein.
38. The \$399.95 charged by Defendants for listings in the American Business Index is unconscionably high in relation to the value of the listings, which, for most businesses, is nil.
39. Defendants' unconscionably high prices have been exacerbated by their misleading telemarketing script, which equates listings in American Business Index with renewals of listings in the local Yellow Pages directories.
40. Defendants' pricing practices constitute an unfair trade practice within the meaning of the Missouri Merchandising Practices Act Chapter 407 RSMo, and hence violate the Act.

WHEREFORE Plaintiff State of Missouri requests judgment in its favor and the following relief:

1. Preliminary and permanent injunctions prohibiting Defendants from engaging in any business activity in, into or from Missouri.
2. Appropriate restitution to all Missouri customers who purchased listings in Defendants' American Business Index.

3. Civil Penalties of up to \$1000 for each violation of the Missouri Merchandising Practices Act.
4. The award of investigative and litigation costs and fees to the State of Missouri.
5. Such other relief as the Court deems appropriate.

Respectfully Submitted,

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